

C0070035

Outgoing

OK

**From:** James Owen  
**To:** OGMCOAL  
**CC:** Steve Christensen  
**Date:** 6/20/2011 3:27 PM  
**Subject:** Fwd: Re: 2011 bonding escalation

>>> James Owen 6/7/2011 5:39 PM >>>

Rusty,

I understand your concern, and greatly appreciate you taking a closer look at this issue.

The letter you received from Pete Hess regarding the index numbers and escalation factors using the Means Historical Index for years 2003 to 2010 has since been updated with the corrected value. Whether the originally listed 0.4% was the a 3-year average and wasn't updated, or whether it was a mistake, it would still be a typo and shouldn't have been in the memo. I apologize that the initial document was incorrect.

The decision to estimate escalation based on a five-year instead of a three-year average was made by management within the Division of Oil Gas & Mining. Paul Baker, who is the Minerals Program Manager, suggested the change be made based on the idea of moderating the values - whether they go up or down. Paul's decision to move to a five year average was supported by Dana Dean, the Associate Director of the Mining program, as well as Coal Program staff. The decision was made to implement the five-year average starting in 2011. The Minerals Program does not do the bonding for the Coal Program. But, to avoid being arbitrary, a consensus value for bonding escalation is used for Minerals, Coal, and the Abandoned Mines Program. The calculations are done annually and sent out to staff from all three programs.

No public input processes are required for this type of adjustment. We are required to inform permit holders when their bond amount is being adjusted, but this is not the case for escalation estimates. The new escalation values are applied to any permits that are under permit review, or any permits that are being amended in such a way as to affect the bond calculations.

For the Sunnyside Co-Gen permit(C/007/0035), the bond was adjusted during a midterm permit review in 2010. Those estimates will not be revisited until the next mid-term, or until an amendment to the permit is made that affects the bond. So, the 1.7% escalation will not apply unless an amendment that affects bonding is submitted, reviewed, and approved.

For the Star Point Waste Fuel permit (C/007/042), a midterm permit review was conducted in 2011, so the 1.7% escalation applies now. The Cost Index's were used for 2010 and 2005, to allow for five 1-year intervals (i.e. from '05 to '06, from '06 to '07, and so on). The cost index for 2010 is 136.2. The cost index for 2005 was 125.0. These values, as well as a five year interval, were used to calculate the escalation (x) as follows:

$$136.2 = 125.0 (x)^5$$

$$1.090 = (x)^5$$

$$x = 1.090^{(1/5)}$$

$$x = 1.017$$

According to R645-301-830.300, An additional inflation factor will be added to the subtotal for the permit term. This inflation factor will be based upon an acceptable Costs Index. R645-301-830.410. states that the amount of the bond or deposit required and the terms of the acceptance of the applicant's bond will be adjusted by the Division from time to time as the area requiring bond coverage is increased or decreased or where the cost of future reclamation changes. The Division may specify periodic times or set a schedule for reevaluating and adjusting the bond amount to fulfill this requirement. As per R645-301-

830.421, you will be notified anytime there is a proposed adjustment to the bond amount.

If you would like to schedule an informal conference on any bond adjustment, feel free to inform The Division's Administrative Secretary, Vickie Southwick, via a formal written request. Also feel free to contact Dana Dean, Daron Haddock, or myself if you have any additional questions or concerns.

Thanks,

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>>> Rusty Netz <[rusnetz@hotmail.com](mailto:rusnetz@hotmail.com)> 6/7/2011 9:32 AM >>>

James,

This is regarding our conversation on June 1, 2011 about the escalation factor for bonding in 2011.

SCA received a letter from Pete Hess regarding the index numbers and escalation factors using the Means Historical Index for years 2003 to 2010. You had mention that the listed escalation factor of 0.4% for year 2011, was a typo/error. It appears to me that it is not a typo/error, but rather the correct calculated percentage using a three year averaging period. Which is what has been used in the past.

SCA would appreciate an explanation as to why the change was made. Was there a public input process that we missed? Were the permit holders notified that the Division was considering this change. We estimated our 2011 budget for bonding on the 2010 escalation factor of 0.5%.

SCA went through the bonding process for the Sunnyside permit in 2010, and the escalation factor was 0.5% (using the three year average). And now 8-months later the escalation factor is increasing by more than 3 times (using the five year average) as the Division is requesting a 1.7% escalation. Based on the numbers presented and even if the 2011 inflation is 1.7%, the 5 year average would be 1.0% for next year's bonds. It would seem that this year's 5 year average is arbitrarily high due to the sudden change in procedure that seems to be stretching to average in the extra high inflation that occurred in 2006.

SCA also noticed that the letter "Escalation Factor for 2011" dated February 3, 2011, is from Paul Baker of the minerals division. Is the minerals division doing the bonding for the coal division?

Hopefully you can understand and appreciate our concern. We believe the Division should reconsider the 2011 escalation factor of 1.7%. Increasing the 2011 escalation factor by 3 times the 2010 escalation factor is extreme. We would like some feed back on this issue, please.

Thank you.

Rusty Netz  
Sunnyside Cogen.